IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7652 OF 2004

Shri Anil Dinkar Kulkarni. .. Petitioner
v/s.
The Bombay Municipal Corpn.
& ors. .. .. Respondents

Mr.N.G.Chhatre with Mr.Satish Mayekar for petitioner.

Mr.A.A.Bhor for respondents.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 4th July 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioner is an employee of the Municipal Corporation of Mumbai. He is working as Fitter Grade-II and stays in the Bhandup Water Complex Staff Quarters, Mulund. He availed of a loan facility to buy a flat of his own. Subsequently, it is his case that because he had taken further loan from somebody else, he had to sell that flat. The fact remains that he did not shift to the flat which he had purchased after taking the loan from the Municipal Corporation at a concessional rate of interest. He continues to occupy the quarters provided by the Municipal Corporation.

3. The Municipal Corporation initiated an action for eviction and has subsequently started charging market rent for occupying the staff quarters. It is stated in the petition that subsequently much later-on, no steps are taken in the eviction proceedings, though in the reply filed by the Municipal Corporation, it is stated that those proceedings are still alive. In any case, the main grievance of the petitioner is with respect to the rent which is being charged.

4. Mr.Chhatre, learned Counsel appearing for the petitioner, submits that there are similarly situated employees whose names are listed in Exhibit-L to the petition. They have also sold their flats. They are occupying the premises of the Municipal Corporation and they are not being charged the market rent. He, therefore, submits that the charging of market rent is bad in the case of the petitioner.

5. A reply has been filed by the Municipal Corporation, affirmed on 23rd June 2005. A list of employees who are similarly situated to the petitioner viz. one Shri P.O. Budgujar and some 18 others is annexed to this reply. They are

employed in almost similar type of posts such as Pump Operator, Electrician etc. They are also being charged the market rent as shown in the chart. As far as the persons mentioned in Exhibit-L to the petition are concerned, it is stated at the end of paragraph 4 that they are superior employees and they are in emergency services and, therefore, concessions are given to them. Yet it is stated that the necessary steps are being taken with respect to them. Now, this statement is only a bald statement. If the Municipal Corporation wants to be fair, the Corporation must proceed against these persons also and recover the market rent from them as well. In any case, as far as the eviction proceedings are concerned, it is stated in paragraph 5 that other similarly situated employees will also face inquiry proceedings and they are being initiated. We can only say that unless the similar proceedings are initiated against other employees, the petitioner will not be evicted from his quarters. As far as charging of the market rent is concerned, we do not find that there is any error on the part of the Municipal Corporation in that behalf and as held by the Apex Court in the case of **Chandigarh Administration & anr. vs. Jagjit Singh & anr.**

reported in AIR 1995 S.C. 705, assuming that wrong action is taken in one case does not permit the High Court to pass a wrong order in another matter.

6. In the circumstances, the petition is dismissed.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)